

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DENISE SIZOO, an individual,

Plaintiff,

vs.

OLYMPUS MORTGAGE COMPANY, a
Delaware corporation, et al.,

Defendants.

Case No: C 11-2561 SBA

ORDER REMANDING ACTION

Plaintiff Denise Sizoo, acting pro se, commenced the instant mortgage fraud action in Sonoma County Superior Court on April 26, 2011, against American Home Mortgage Servicing, Inc., among others. On May 26, 2011, Defendants filed a Notice of Removal under 28 U.S.C. § 1441(b) on the grounds that Plaintiff's claims arise under federal law. Although the Complaint only asserts state law causes of action, Plaintiff's sixth cause of action, styled as "Defendants Lack Standing to Proceed with Foreclosure," alleges that Defendants violated the Truth in Lending Act ("TILA") and Regulation Z. Compl. ¶ 32.

On June 2, 2011, Defendants filed a motion to dismiss for failure to state a claim, pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 17. Plaintiff failed to file an opposition to the motion by October 11, 2011, as required by the version of Local Rule 7-3 in effect when the motion was filed. Thus, on October 27, 2011, the Court sua sponte granted Plaintiff an extension of time until November 4, 2011 to oppose the motion, and continued the motion hearing to November 15, 2011. Dkt. 23. To date, the Court has not received any response from Plaintiff.

Based on Plaintiff's failure to respond to Defendants' motion to dismiss, the Court grants said motion to dismiss with respect to Plaintiff's sixth cause of action insofar as it is predicated on TILA and/or Regulation Z. See Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir.

1995) (court may grant unopposed motion to dismiss under Rule 41(b)). The Court declines to assert supplemental jurisdiction over Plaintiff's remaining claims, all of which are based on state law. See 28 U.S.C. § 1367(c)(3); Sanford v. MemberWorks, Inc., 625 F.3d 550, 561 (9th Cir. 2010) ("A district court 'may decline to exercise supplemental jurisdiction' if it 'has dismissed all claims over which it has original jurisdiction.'") (quoting in part 28 U.S.C. § 1367(c)(3)). Accordingly,

IT IS HEREBY ORDERED THAT:

1. Defendants' motion to dismiss is GRANTED as unopposed with respect to Plaintiff's sixth cause of action insofar as it is predicated upon violations of TILA and/or Regulation Z. The motion is DENIED in all other respects.

2. The Court declines to assert supplemental jurisdiction over Plaintiff's remaining claims and REMANDS the action to Sonoma County Superior Court.

3. The hearing date of November 15, 2011 is VACATED.

4. The Clerk shall close the file and terminate any pending matters.

IT IS SO ORDERED.

Dated: November 7, 2011


SAUNDRA BROWN ARMSTRONG
United States District Judge

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3 UNITED STATES DISTRICT COURT
4 FOR THE
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6 DENISE SIZOO,

7 Plaintiff,

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9 OLYMPUS MORTGAGE COMPANY et al,

10 Defendant.
11 _____/

Case Number: CV11-02561 SBA

12 **CERTIFICATE OF SERVICE**

13
14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
15 Court, Northern District of California.

16 That on November 8, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
17 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
18 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
19 located in the Clerk's office.

20 Denise Sizoo
21 4733 Stonehedge Drive
22 Santa Rosa, CA 95405

23 Dated: November 8, 2011

Richard W. Wieking, Clerk

24 By: LISA R CLARK, Deputy Clerk
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